IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT :

THE HONOURABLE MR. JUSTICE R.BASANT

FRIDAY, THE 10TH AUGUST 2007 / 19TH SRAVANA 1929

Crl.MC.No. 2557 of 2007()

S.T.1883 OF 2006 OF JFMC, ALATHUR

PETITIONER: ACCUSED

GIREESHKUMAR, S/O.MANIKKAN,
AGED 40 YEARS, MATTUPARAYIL, NEMMARA VILLAGE,
CHITTOOR TALUK.

BY ADV. SRI.JOHNSON P.JOHN

RESPONDENTS:

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1. STATE OF KERALA, REPRESENTED BY
PUBLIC PROSECUTOR, HIGH COURT OF KERALA,
ERNAKULAM.

2. MURALEEDHARAN, S/O.NARAYANANKUTTY NAIR,
AGED 52 YEARS, SAYUJAYM, PALAPARAMBU,
NEMMARA VILLAGE, CHITTOOR TALUK.

BY PUBLIC PROSECUTOR SRI.M.S.BREEZ

THIS CRIMINAL MISC. CASE HAVING COME UP FOR ADMISSION ON 10/08/2007, THE COURT ON THE SAME DAY PASSED THE FOLLOWING:

R.BASANT, J

Crl.M.C.No.2557 of 2007

Dated this the 10th day of August, 2007

O R D E R

The petitioner faces indictment in a prosecution under Section 138 of the Negotiable Instruments Act. Cognizance has been taken. The petitioner had entered appearance before the learned Magistrate. He was enlarged on bail. But on a subsequent date of posting, ie. 21.07.07, the petitioner could not appear due to a mistake in the noting of the date of posting. Consequently a warrant of arrest has been issued against the petitioner.

2. According to the petitioner, he is absolutely innocent. His omission to appear was not wilful, but was due to reasons beyond his control. The petitioner is willing to appear before the learned Magistrate and seek regular bail. It is therefore prayed that direction under Section 482 Cr.P.C may be issued in favour of the petitioner.

3. In the facts and circumstances of this case, I am satisfied that a direction can be issued to the learned Magistrate to consider the application for bail, to be filed by the petitioner on his surrender, on the date of surrender itself. There can be a further direction that the warrant of arrest issued against the petitioner shall not be executed.

4. In the result, this Crl.M.C is allowed. The following directions are issued in favour of the petitioner.

i) The non bailable warrant issued against the petitioner shall not be executed till 20.08.07.

ii) The petitioner shall on or before that date, appear before the learned Magistrate and apply for bail. The learned Magistrate shall pass appropriate orders on merits and in accordance with law on the date of surrender itself.

Hand over a copy of this order to the learned counsel for the petitioner.

(R.BASANT, JUDGE)

rtr/-